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7 HOME DEPOT U.S.A., INC.
d.b.a. THE HOME DEPOT # 6679

8
9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 OUTERBRIDGE ACCESS
12 ASSOCIATION, SUING ON BEHALF OF
13 DIANE CROSS; and DIANE CROSS, an
individual,

14 Plaintiffs,

15 vs.

16 HOME DEPOT U.S.A., INC. dba THE
17 HOME DEPOT # 6679; MIRA MESA
MARKETPLACE WEST, LLC; and DOES
18 1 through 10, inclusive,

19 Defendants.

20 MIRA MESA MARKETPLACE WEST,
LLC.

21 Cross-claimant,

22 vs.

23 HOME DEPOT U.S.A., INC. d.b.a. THE
24 HOME DEPOT # 6679 AND ROES 1
THROUGH 30, Inclusive

25 Cross-defendants.
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27
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CASE NO. 08CV 0046 JM JMA

**JOINT MOTION TO DISMISS CROSS-
COMPLAINT FILED BY MIRA MESA
MARKETPLACE WEST, LLC [Federal
Rule of Civil Procedure, Rule 41; Local rule
7.2]**

1 TO THE COURT AND ALL INTERESTED PARTIES:

2 IT IS HEREBY JOINTLY REQUESTED, pursuant to Rule 41 of the Federal Rules of Civil
3 Procedure, by Defendant HOME DEPOT U.S.A., INC. d.b.a. THE HOME DEPOT # 6679 ("Home
4 Depot") and Defendant and Cross-Complainant MIRA MESA MARKETPLACE WEST, LLC ("Mira
5 Mesa") that this Court enter a dismissal without prejudice of the Mira Mesa's Cross-Complaint filed
6 against Home Depot in the above-entitled action. The dismissal without prejudice shall dismiss the
7 Cross-Complaint in its entirety.

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9 DATED: September 18, 2008

GREENBERG TRAURIG, LLP

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11 By /s/Alana R. Cho
12 GREGORY F. HURLEY
13 MICHAEL J. CHILLEEN
14 ALANA R. CHO
15 Attorneys for Defendant
16 Home Depot U.S.A., Inc.
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MILBERG & DE PHILLIPS

19 Dated: August __, 2008

20 By: /s/Timothy G. McNulty
21 Timothy G. McNulty, Esq.
22 Attorney for Defendant MIRA MESA MARKETPLACE
23 WEST, LLC
24 E-mail: tmcnulty@surflaw.net
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PROOF OF SERVICE**STATE OF CALIFORNIA, COUNTY OF ORANGE**

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is **3161 Michelson Drive, Suite 1000, Irvine, CA 92612.**

On September 18, 2008, I served the **JOINT MOTION TO DISMISS MIRA MESA'S CROSS-COMPLAINT** with the Clerk of the United States District Court for the Southern District of California, using the CM/ECF System. The Court's CM/ECF System will send an email notification of the foregoing filing to the following parties and counsel of record who are registered with the Court's CM/ECF System:

Pinnock & Wakefield, APC Theodore A. Pinnock David C. Wakefield Michelle L. Wakefield 3033 Fifth Avenue, Suite 410 San Diego, CA 92103 Email: theodorepinnock@pinnockwakefieldlaw.com; davidwakefield@pinnockwakefieldlaw.com; michellewakefield@pinnockwakefieldlaw.com;	Counsel for Plaintiffs OUTERBRIDGE ACCESS ASSOCIATION, SUING ON BEHALF OF DIANE CROSS, and Diane Cross, as an individual
Milberg and De Phillips, P.C. 2163 Newcastle Avenue, Suite 200 Cardiff, California, 92007 Timothy G. McNulty E-mail: tmcnulty@surfnet.com	Counsel for Cross-Defendant and Cross- claimant MIRA MESA MARKETPLACE WEST, LLC

☒ **(BY ELECTRONIC SERVICE VIA CM/ECF SYSTEM)**

In accordance with the electronic filing procedures of this Court, service has been effected on the aforesaid party(s) above, whose counsel of record is a registered participant of CM/ECF, via electronic service through the CM/ECF system.

☒ **(FEDERAL)**

I declare under penalty of perjury that the foregoing is true and correct, and that I am employed at the office of a member of the bar of this Court at whose direction the service was made.

Executed on September 18, 2008, at Irvine, California.

/s/Alana R. Cho
ALANA R. CHO